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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In re:)
)
Advanced Television Systems) **MM Docket 87-268**
and Their Impact Upon the)
Existing Television Broadcast)
Service)
_____)

**COMMENTS OF FREEDOM NEWSPAPERS, INC. ON THE
SECOND FURTHER NOTICE OF PROPOSED RULEMAKING**

Freedom Newspapers, Inc. ("Freedom") submits these comments in response to the Commission's Second Further Notice of Proposed Rulemaking in the above-referenced proceeding ("Second Further Notice").

I. INTRODUCTION

Freedom is the parent corporation of the licensees of five full-service commercial television stations: WLNE(TV), New Bedford-Providence, Massachusetts; WRGB(TV), Albany-Schneectady-Troy, New York; WTVC(TV), Chattanooga, Tennessee; KFDM-TV, Beaumont-Port Arthur, Texas; and KTVL(TV), Medford, Oregon. All of these stations operate in small or mid-sized markets. As an experienced operator of these stations, Freedom is well-qualified to comment on the effect of the Commission's rules and proposals for the implementation of advanced television ("ATV").

Freedom continues to support the Commission's efforts

to make ATV a reality. As Freedom has previously noted, however, in order to continue to provide existing programming via ATV, each of the 1500 operating TV stations will have to spend millions of dollars. This existing service will remain strong and viable only if a realistic ATV implementation plan is adopted that takes into account the financial situations of many small and mid-sized market stations.

In comments filed in support of the petitions for reconsideration of the Second Report and Order/Further Notice of Proposed Rulemaking in this proceeding, Freedom urged the Commission to consider the disastrous economic forces that will overtake many stations in small and mid-sized markets if the Commission's ATV implementation plan does not adequately account for the real-life problems many stations face.

Freedom's concerns have been echoed by others in the industry. Mr. Daniel Burke, the CEO of Capital Cities/ABC, has recently warned that the huge costs of ATV may bankrupt many stations in small markets and drive them off the air, thus depriving the networks of a national audience and possibly destroying the networks themselves.^{1/} As Freedom has suggested, this may well result in the loss of local news and community oriented programming outside large urban areas.^{2/} In addition, Mr. Philip Lombardo, the managing general partner of Citadel

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1. See Trachtenberg, High Definition TV Has Networks, Outlets Worried About Costs, Wall St. J., Nov. 11, 1992, at A1, col. 6 (attached as Exhibit 1).
 2. See also Wharton, Not So Fast on HDTV, ABC's Burke Warns, Daily Variety, Oct. 2, 1992 at 4 (attached as Exhibit 2).

Communications Company, Ltd., which operates stations in mid-sized and small markets^{3/} has explained that the capital expenditures required for ATV conversion simply are not affordable to some stations, given recent flat revenues and the reluctance of banks to lend to the industry.^{4/}

On top of the financial burdens presented by the current ATV implementation schedule, the Commission's ATV allotment proposal present issues that may affect the ability of certain stations to compete in the ATV marketplace.

II. PLANS TO ALLOT ATV CHANNELS BASED ON CURRENT TRANSMITTER SITES MUST ACCOUNT FOR UNUSUAL CIRCUMSTANCES

In the Second Further Notice, the Commission proposed taking into account existing NTSC transmitter sites in the ATV allotment process.^{5/} By joining the Joint Broadcaster Comments that are being filed today by numerous local broadcast companies, the networks and others, Freedom has indicated general agreement with the Joint Broadcasters' proposal to adopt an allotment/assignment approach that is based on replication/coverage maximization principles. However, Freedom has one reservation about any allotment plan that slavishly adheres to existing transmitter sites: current inequities in the NTSC allotment

3. WMGC-TV, Binghamton, New York; WVNY-TV, Burlington, Vermont; KCAU-TV, Sioux City, Iowa; and KCAN-TV, Albion, Nebraska. Mr. Lombardo also is the President of the managing general partner of Coronet Communications Company, Limited Partnership, licensee of WHBF-TV, Rock Island, Illinois.

4. See Trachtenberg, n.1, supra.

5. Second Further Notice at ¶ 35.

scheme should not thoughtlessly be perpetuated in the new ATV service.

A. Using Existing Transmitter Sites May Perpetuate Current Inequities.

In the Second Further Notice, the Commission requested comment on any circumstances where it might be desirable to evaluate ATV allotments on the basis of sites other than those occupied by existing TV stations.^{6/} WLNE-TV, Freedom's Channel 6 station in the New Bedford-Providence market, presents a real-life example of one such circumstance.

In order to understand the possible effect of the ATV allotment process on WLNE, it is necessary to understand WLNE's history.

WLNE's New Bedford transmitter location historically has been a handicapped one. In the Commission's attempts in the early 1960's to establish three competitive, off-air VHF network stations in the New Bedford-Providence market, it "shoehorned" Channel 6 into its present site through the expedient of sanctioning a transmitter site that is short-spaced to three other VHF stations. Because WLNE's present transmitter site is disadvantageously situated for the existing off-air antenna orientation in the market, off-air viewers of the station have received a markedly inferior signal from WLNE, compared to the signals of the other major network stations in the market.

The original authority to construct WLNE's Channel 6 station specified a transmitter site that was off the mainland of

6. Id.

Massachusetts, on Martha's Vineyard.^{7/} Eventually, the transmitter site was moved to its present location in Tiverton, Rhode Island.^{8/} That site is short-spaced to co-channel Stations WRGB, Schnectady, New York and WCSH-TV, Portland, Maine, and is also short-spaced to adjacent channel WCVB-TV (channel 5), Boston, Massachusetts. Despite these short spacings, the Commission concluded "that the proposal [for a Tiverton location]. . . represents the most practical solution for bringing a much needed VHF service to Providence and southern Massachusetts."^{9/}

However, the "move-in" to Tiverton has had a substantial public interest drawback: off-air antennas in the market generally are oriented toward the north, away from WLNE's transmitter site. WLNE's site is 19 miles to the south of the Rehoboth antenna farm where the transmitter sites of other stations in the New Bedford-Providence market are located. Viewers with their antennas oriented toward Boston can receive the numerous Boston stations, most of which have their transmitting towers located at the antenna farm in Needham, Massachusetts. Because of the geographic relationship of Needham to Rehoboth, many viewers in the New Bedford-Providence market can orient their antennas to receive both the Boston and Providence stations.

7. See WTEV Television, Inc., 23 Rad. Reg. (P&F) 1050b, 1052 (1962).

8. See File Nos. BMPCT-6524; BLCT-1719.

9. 23 Rad. Reg. at 1056.

Because of the predominant off-air antenna orientation to pick up the Providence and Boston television stations, viewers of WLNE receive an inferior quality signal compared to the other two network stations in the market. The Commission's plan to use WLNE as a short-spaced hybrid station serving both New Bedford and Providence has not fully achieved either of its goals, and has unintentionally hindered the station's ability to serve viewers off-air.

B. Perpetuating NTSC Allotment Problems in ATV Would Impose Onerous Burdens.

WLNE has labored with its transmitter site problems for about thirty years. If this inequity were continued in the ATV service, the Commission's new ATV scheme would impose an onerous regulatory "double-whammy" on WLNE. First, WLNE must expend millions of dollars to construct an ATV system under the aggressive schedule imposed by the Commission. And it must bear the concomitant financial burden of incurring substantial power costs during eight years of simulcast operations. Second, WLNE would be faced with a technical impediment to its ability to generate revenue from its ATV service --- a service that, from the beginning, does not present any realistic short-term opportunities to produce additional revenue.

Moreover, there is no way to know whether cable operators will have the capacity (or the desire) to carry a full complement of simulcast ATV signals, along with their existing

NTSC signals.^{10/} Therefore, it is possible that ATV service will be provided primarily over-the-air for a while. During that period, WLNE's current problems at NTSC actually may be exacerbated in the ATV service.

Any such reception problems in the ATV service would further exacerbate the problems of a station that must expend considerable sums to construct its ATV facilities.

C. ATV Allotments Present Opportunities To Restore Competition.

ATV presents an opportunity to correct WLNE's historical disadvantage and to finally allow full competition in its market. This can be accomplished by building flexibility into the ATV allotment process. Freedom therefore supports the Commission's proposal to allow a licensee to conduct its ATV and NTSC operations at different sites, where the alternate ATV site would meet minimum spacing requirements and adequately serve the community of license.^{11/}

Once an ATV transmission standard is adopted, and as the Commission prepares a "final" proposed ATV allotment table, Freedom also encourages the Commission to accept requests for changes in antenna sites based on situations such as WLNE's, in

10. As the Commission is aware, the Cable Television Consumer Protection and Competition Act of 1992 contains "must carry" provisions that may benefit broadcasters. However, a number of lawsuits have been filed that challenge these provisions. Even if these provisions are upheld, it is unclear how and whether they will apply to the carriage of ATV simulcast transmissions.

11. The Commission has not yet determined what ATV contour will be required to be placed over a station's community of license. Freedom urges the Commission to use a contour that is no less in area than the required NTSC contour.

the same way that the Commission intends to consider negotiated allotment/pairing agreements.^{12/}

Moreover, until the Commission issues its proposed "final" ATV allotment table, it is not possible to determine how much flexibility stations will have to relocate from their assigned ATV transmitter sites, and also maintain required spacing. But given the current frequency congestion in the northeast, it is possible that little movement will be allowed under the separation standards. Freedom therefore encourages the Commission to adopt procedures to grant short-spacing waivers for new ATV sites, in circumstances where the licensee suffers from these types of antenna orientation problems, or where the allotted site is unavailable because of tower problems.

III. CONCLUSION

In light of the yet undeveloped transmission technology, and an unarticulated transmission standard, the Commission's ATV allotment proposal leaves many questions unanswered. For this reason, the full effect of the Commission's proposal to allot ATV channels to current NTSC sites cannot be determined. One thing is clear: requiring broadcasters to

12. See Second Further Notice at ¶¶ 7, 51 & n.55. Because an ATV transmission standard has yet to be selected, and test data is still preliminary, it is unclear whether the transmission characteristics of certain ATV systems may ameliorate WLNE's current problem with antenna directivity. Even after an ATV transmission standard is adopted, it may not be possible to predict with any certainty what type of reception problems will arise due to antenna orientation. These problems may not be known until actual ATV operation commences. For this reason, flexibility to relocate must be maintained even after ATV service is initiated.

expend considerable sums for ATV without allowing them to rectify problems with current transmitter sites would impose an unfair burden and an unreasonable impediment to a new service. Freedom urges the Commission to adopt policies that allow flexible solutions to these problems, as set forth above.

Respectfully submitted,
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November 16, 1992

November 11, 1992

Scary Picture

High-Definition TV Has Networks, Outlets Worried About Costs

They Fear the Revenue Gains
May Be Slight if People
Refuse to Buy \$3,500 Sets

Dividing Rich From Poor?

By JEFFREY A. TRACHTENBERG
Staff Reporter of THE WALL STREET JOURNAL

Nestled in his seat in St. Louis's Fox Theater, Stephen Merren marveled at the baseball game unfolding on a 28-foot-wide screen. The panoramic view made him feel as though he were inside the park, and the picture was so clear he could practically see the seams on the ball. "I remember thinking that this is the next generation of television," says Mr. Merren, who manages station WKTV in Utica, N.Y.

Four years after his first long look at high-definition television, alarm has replaced his sense of wonder. "It's definitely light years ahead of everything else," he says. "But we can't afford the millions of dollars we'll need to invest. I don't see how others will be able to pay for it, either."

Yet Mr. Merren will soon have little choice. In the most dramatic development in television since David Sarnoff broadcast black-and-white pictures from the 1939 World's Fair, high-definition TV will probably reach the U.S. market in 1995. TV stations that don't invest in it run the risk of being driven out of business by more aggressive competitors, such as HDTV satellite or cable systems, and later by Federal Communications Commission rules.

Startling Improvement

HDTV, in case you haven't seen it, is a knockout. Designed to match movie-theater viewing, it has twice the clarity of today's TV pictures, richer colors and sound quality rivaling a compact disk's. The screen is wider and more rectangular than square. "You'll see all the slaves in 'Spartacus' and all the grains of sand in 'Lawrence of Arabia,'" says Robert Siegenthaler, president of broadcast operations and engineering at Capital Cities/ABC Inc.'s ABC Television Network Group.

Yet the new technology is likely to wreak havoc on much of the industry. TV stations, the major broadcast networks, cable channels and local cable systems may have to spend \$15 billion to \$20 billion to achieve HDTV capability.

plex HDTV sets will start out costing about \$3,500, largely because of the expense of making the big screens required for the best pictures. Even by the decade's end, the sets are likely to run about \$2,000, six times the cost of a color set today.

The Forces at Work

Who asked for a clearer picture in the first place? Viewers, many of whom have deserted network television in favor of cable channels and videocassette recorders, complain about program quality, not technology. Even network executives say their biggest challenge is to develop funnier comedies and better dramas. "A 10% improvement in technical quality won't induce you to watch a show if you don't like it," Mr. Siegenthaler says.

The push toward HDTV is coming from federal regulators who see it as part of a swing toward digital technology, politicians who want to overtake the Japanese, and equipment makers who anticipate billions of dollars in sales. Encouraged by Washington visionaries such as FCC Chairman Alfred Sikes and Congressman Edward Markey, they contend that HDTV is the roadway into the next century. And in many ways it is, offering, for example, a new dimension to interactive television and enabling people to use TV sets like computers.

But who will pay for an overhaul of the TV infrastructure? Cable subscribers, already angered by five years of climbing bills, may be loath to ante up. And broadcasters may not be able to raise their ad rates to cover the cost. "Network television is a commodities market, and pricing reflects supply and demand, not picture quality," says Paul Schulman, president of a media-buying firm bearing his name.

Unfortunate Timing

In many ways, the HDTV push couldn't come at a worse time. The three major networks combined are taking in about \$9.4 billion this year in national advertising, but only ABC made money in 1991. Yet each of the three will probably have to spend up to \$100 million gearing up for HDTV over the next few years, plus about \$50 million apiece to equip the handful of stations they own.

Local stations, too, face re-equipment costs that many will find prohibitive. Last year, more than a third of the nation's 1,076 commercial TV stations ran at a loss, and many more are mired in debt and in their worst ad slump in years.

"I don't see any way we can afford this," says Philip Lombardo, owner of Citadel Communications Co., which operates four stations in such markets as Sioux City, Iowa, and Rock Island, Ill. Capital expenditures at each of his stations range between \$75,000 and \$200,000 a year; investing a minimum of \$1.2 million simply to pass along digital signals will be impossible, he says. He notes that since 1989 his revenues have risen only 2% to 3% annually.

Please Turn to Page A6, Column 2

Scary Picture: Cost Of HDTV Worries Networks, Stations

Continued From First Page

and that banks are hesitant to lend to already-indebted broadcasters.

Moreover, experience justifies broadcasters' concerns. Seven years ago, stereo TV was promoted as the most exciting improvement since the introduction of color. But although more than a third of the 30.2 million color sets expected to be sold this year will have stereo capability, many broadcasters that invested in it are disappointed. "Our viewers never cared," says Mr. Merren in Utica.

Even cable operators are worried, although their initial investment will be much less than that of broadcasters. Getting started in HDTV — delivering, say, just five channels in the new format — will cost the nation's 11,470 cable systems more than \$250 million. The cost will be many times higher if HDTV becomes a hit; many cable executives expect future cable systems to eventually offer 200 or even 600 channels and say their HDTV costs will be rapidly passed on to subscribers.

For the industry, "it's going to be daunting at first because consumers aren't going to rush out to buy new HDTV sets," says Richard Green, chief executive of Cable Television Laboratories, the industry's research consortium.

Despite all the looming difficulties, key decisions about HDTV's future will be made soon. Next year, the FCC will choose from five rival manufacturing groups to set an HDTV standard. Just two years later, the first HDTV sets will be rolling off assembly lines, and some local TV stations will begin HDTV transmissions. By 1989, the FCC will require stations to begin broadcasting HDTV or risk losing their license to do so — though they also must continue beaming old "analog" signals for 15 years. After the year 2000, the FCC has tentatively decreed, HDTV will be virtually the only television available.

The Early Buyers

The people most likely to buy HDTV sets early on will be upscale TV fanatics — a highly desirable audience for advertisers and one that local broadcasters can least afford to lose. But lower-income families may have to do without television altogether, despite its role as a critical source of news and entertainment, if HDTV-set prices remain high. "This is an information system which will truly separate rich from poor," warns Andrew Jay Schwartzman, executive director of the consumer-oriented Media Access Project.

In addition, Walt Cichora, technology vice president at Time Warner Inc.'s big cable unit, notes that "only a small number of people have television-viewing rooms" spacious enough to hold the large HDTV screens — many people say the smallest will measure at least 36 inches on the diagonal. "You shouldn't penalize the whole population" to please the wealthy few, he says.

Federal regulators, however, strongly disagree. They contend that prices will be affordable by 2000 and add that HDTV signals can be displayed on existing receivers via low-cost converters.

The switch to HDTV will render most equipment obsolete because it's a digital medium in which pictures and colors are transmitted through the 1s and 0s of computer code rather than the analog waves used today. Even small stations will need new transmitters, antennas, cameras and editing equipment. For production alone, the ABC network will need new editing equipment, 70 studio cameras and 10,000 HDTV sets, plus other gear.

Small Stations at Risk

Although broadcasters in big markets such as New York, Los Angeles and Chicago can easily handle the investment, Daniel Burke, chief executive of Capital Cities/ABC, recently warned that the huge costs may bankrupt many TV stations in small markets and force them off the air. That could deprive a network of a nationwide audience and possibly destroy the network itself.

In Erie, Pa., Mike Coop, chief engineer for WICU-TV, believes he would have to spend \$3 million to \$4 million for a new tower, transmission lines, antenna and transmitter. "HDTV will put us out of business," he declares. "I spend the same amount as the top 50 markets to put on a picture, but our revenues are much less." In fact, the NBC affiliate's revenues have declined steadily since 1988 to about \$5 million today; WICU, once the only station in Erie, now competes with four others in town.

Others worry that if rivals in cable and direct-satellite switch to HDTV first, they

The Development of High-Definition TV

1960: Takashi Fugo begins work on a new world-wide standard for television signals at the NHK Labs of Japan Broadcasting Corp.

February 1961: A Japanese version of high-definition television is demonstrated in North America.

December 1964: An HDTV signal is beamed to TV screens in the rounds of the Capitol and directly to FCC headquarters.

January 1965: The FCC sets up a joint industry-government committee on advanced television. Representative Edward Markey holds hearings on HDTV.

March 1965: The FCC's advisory committee on advanced television is formed.

May 1966: The American Electronics Association asks Congress for \$1.35 billion to fund HDTV growth.

March 1966: FCC Chairman Alfred Sikes sets exact goals for implementation of an HDTV transmission standard.

June 1966: General Instrument Corp. announces a digital HDTV system, "Color Memory," soon before FCC.

November 1967: First HDTV system for independent test sponsored by the FCC at the Advanced Television Test Center in Atlanta.

December 1967: Congress passes HDTV legislation.

will land the best programming. Stations that don't switch to HDTV may be reduced to only news and talk shows — much like what happened some years back when the FCC ruled that AM radio stations couldn't offer stereo sound and many music stations migrated to FM. Although AM stations were ultimately permitted to offer stereo, relatively few do.

Stunned by all the hand-wringing, FCC officials note that the broadcast industry itself first pushed for high-definition television. Only after congressional hearings in the mid-1960s, says Rep. Markey, a Massachusetts Democrat, did consumer-electronics makers begin to realize the implications of HDTV.

How It Started

High-definition television traces its start back to the late 1950s, when Takashi Fugo set out to develop a new world-wide standard for TV signals at the NHK Labs of Japan Broadcasting Corp. The Japanese push became a hot issue in late 1964, when two American television associations sponsored a demonstration, beaming an HDTV signal to viewers in the Capitol and FCC headquarters. Amid fears that the Japanese were stealing a march, U.S. broadcasters asked the FCC to look into the new technology. Rep. Markey, chairman of a telecommunications subcommittee, then held two years of hearings on what it would mean if the Japanese set the new TV standard. "I realized our consumer-electronics industry was in trouble if we didn't find a way to compete," he says.

At one point, the American Electronics Association asked Congress for \$1.35 billion to help American companies fight the battle. The FCC set a competition in the U.S. to devise an American standard, specifying that it must be compatible with the old signal to avoid rendering obsolete the TV sets now in use.

Then, almost overnight, the picture changed. In June 1966, General Instrument Corp. announced that it had developed a new system far better than the Japanese standard. Instead of NHK's old-technology analog waves, General Instrument had crafted an entirely digital system: Signals could be manipulated and stored like any other computer data. That offered new technical capabilities, including practical interactive television. Shortly afterward, several other manufacturers announced they, too, had developed digital systems.

Is It Worth the Cost?

HDTV proponents contend that its benefits fully justify the costs. "This is going to go beyond just better pictures and sound," FCC Chairman Sikes says. "There will be multimedia services which, over time, will also become attractive." He believes that broadcasters' conversion costs will drop quickly and that consumer prices will, too; he notes previous cases of new electronic equipment that fast became affordable to the middle class.

Others disagree. While costs will fall, manufacturers who contend that HDTV sets will drop far under \$2,000 by the turn of the century are "dreaming," says Ron Sommer, president of Sony Corp. of America. He should know. Sony is already manufacturing HDTV sets for Japan, where, after aggressive price-cutting, they still cost about \$3,000.

Nonetheless, manufacturers anticipate a bonanza. A study by the Advisory Committee on Advanced Television Service, an industry group, says consumers, who now spend nearly \$7 billion a year on color-TV sets, could shell out \$38.8 billion to \$68.2 billion in the first 10 years of HDTV. Larry

Darby, a consultant in Washington, D.C., suggests that viewers will spend up to \$145 billion between 1985 and 2000. Neither estimate is adjusted for inflation.

To some degree, HDTV is already helping rebuild the U.S. consumer-electronics industry. Robert East, a vice president of General Instrument's Videocipher, says HDTV has created many U.S. research and development jobs that might have gone overseas. And because HDTV sets have large screens, some of the manufacturing may be done in the U.S. to save on shipping costs, he says.

Some companies competing to create an HDTV standard say that winning may open lucrative markets to them. American Telephone & Telegraph Co.'s Bell Labs already has a large semiconductor plant in Allentown, Pa., that produces chips mostly for its own use. But if its partnership with Zenith Electronics Corp. and Scientific Atlanta Inc. succeeds, "selling chips for television sets could be a huge market for us," an AT&T spokesman says.

But all this doesn't help consumers or broadcasters. "The real dilemma of HDTV is that it holds such seductive promise but is not yet — and may never be — consumer-driven at its core," Capital Cities/ABC's Mr. Burke commented recently. And, says Mr. Merren at WICU in Erie, "HDTV isn't a revenue builder for stations. It will mean risking everything." The upshot, he adds, may be fewer TV stations serving fewer people in small markets.

FINANCE

NOT SO FAST ON HDTV, ABC'S BURKE WARNS

BY DENNIS WHARTON

WASHINGTON—Capital Cities/ABC prez Daniel Burke yesterday warned federal regulators that the switch to high definition TV could imperil the survival of small stations.

Burke, in a speech to the Assn. for Maximum Service Television with Federal Communications Commission members and staff in attendance, warned of the "law of unintended consequences" in developing communications policy.

"My concern is the possibility of undermining the universal over-the-air system of television by not thinking through every possible consequence of changes now being planned," he said.

Burke said the high cost of converting a station to HDTV—which some observers have estimated at between \$2 million and \$10 million—might drive small broadcasters out of business.

"Could this mean the end of a universal, free over-the-air delivery system as we know it?" he asked. "And if a significant number of sta-



Burke

size? Could we become a nation of urban 'haves' and small community 'have nots'?"

Burke said the loss of small stations would hurt the "concept of localism" whereby broadcasters

tions do close their doors. could the loss of coverage cripple the networks, which are already fragile financially despite their

offer local news and information.

The FCC is slated to pick an HDTV standard next year. Broadcasters will then have 15 years to fully convert signal delivery to HDTV.

Burke offered four suggestions for the FCC as the HDTV conversion process develops: that universal over-the-air TV service be continued throughout the U.S.; that the commission consider how its actions might hurt small broadcasters' ability to deliver local news and public service; that the FCC ensure that new HDTV transmis-

sions not interfere with current broadcast service during the transition; and that coverage provided local stations on new HDTV channels be equal to the current reach.

Burke's go-slow approach was in sharp contrast to earlier comments in the day from FCC chairman Al Sikes. Sikes noted that "there are some who now sound a note of anxiety" over the prospects for HDTV. However, Sikes said, "Now is not the time to get weak-kneed. Weak-kneed individuals and industries fall behind in dynamic markets."

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JUL 10 1992

Federal Communications Commission
Office of the Secretary

In re:

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Service

MM Docket 87-268

ORIGINAL
FILE

**COMMENTS OF FREEDOM NEWSPAPERS, INC.
IN SUPPORT OF PETITIONS FOR RECONSIDERATION**

Freedom Newspapers, Inc. ("Freedom") hereby files these comments in support of the petitions for reconsideration of the Commission's Second Report and Order/Further Notice of Proposed Rulemaking in the above-referenced proceeding ("Second Report") that were filed by the National Association of Broadcasters ("NAB"), Association for Maximum Service Television, Inc. ("MSTV") and Diversified Communications, Maine Radio and Television Company, and Guy Gannett Publishing Company (collectively, "Diversified").

I. Introduction

Freedom is the parent corporation of the licensees of five full-service commercial television stations: WLNE(TV), New Bedford-Providence, Massachusetts; WRGB(TV), Albany-Schneectady-Troy, New York; WTVG(TV), Chattanooga, Tennessee; KFDM-TV, Beaumont-Port Arthur, Texas; and KTVL(TV), Medford, Oregon. Each of these stations operates in a mid-sized or small TV market.^{1/} As an experienced operator of these stations, Freedom is well-qualified to comment on the effect of the Commission's rules and

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The ADIs of each Freedom station are as follows: KTVL (149), KFDM (134), WTVG (81), WRGB (51), and WLNE (43).

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proposals for the implementation of advanced television ("ATV"). Freedom's experiences provide "real life" perspective on the general positions articulated by NAB and MSTV in their petitions for reconsideration.

Freedom supports the Commission's efforts to make ATV a reality. The television broadcasting industry has provided service to the public for half a century, and continues to provide network programming to the vast majority of all Americans.

In order to continue to provide this programming via ATV, each of the 1500 operating TV stations will have to commit to spend millions of dollars. This existing service will remain strong and viable only if a workable ATV implementation plan is adopted that takes into account the financial situations of many small and mid-sized market stations. However, Freedom fears that disastrous economic forces will overtake many stations in these markets if they are forced to comply with the Commission's proposed ATV implementation schedule.

II. A Flexible Milestone Schedule Must Be Adopted

The Commission has (i) adopted a two-year application/three-year construction period for ATV facilities, (ii) proposed that existing stations simulcast 50% of their programming in seven years, and simulcast all their programming in nine years, and (iii) proposed full ATV conversion in fifteen years.

Assuming Commission adoption of a Final Table of Allotments and an ATV system in 1993, broadcasters could be

required to apply for ATV frequencies by 1995, to fully construct new facilities within three years after grant of a CP (possibly as early as 1996 for applications filed and granted in 1993)^{2/}, to begin to simulcast in 2000, to operate in full simulcast by 2002, and to fully convert to ATV by 2008.

Each of the NAB, MSTV and Diversified has urged the Commission not to impose this type of a rigid implementation schedule at this early juncture, but rather to re-examine the need for and timing of milestones after the initial application deadline passes. Alternatively, NAB and MSTV request that the Commission adopt a staggered construction schedule that takes into account the financial straits of many mid-sized and smaller market stations.

Freedom supports the proposals of NAB, MSTV and Diversified that the Commission not at this time adopt firm construction deadlines, or at least adopt a staggered construction schedule that will allow stations in smaller markets a reasonable opportunity to compete in the ATV marketplace. Freedom also urges the Commission to adopt a flexible approach to establishing simulcast and conversion deadlines.

^{2/} The problems with a three-year construction schedule will be exacerbated if market negotiations for channel pairing are not successful and a race occurs to be the first to file for ATV channels. In that case, the five-year application/construction period could be effectively compressed to three years.

1. The Commission's Current Plans Will Adversely Affect Smaller Stations

Freedom's five stations are all located in small and mid-sized markets^{3/} and will be directly affected by the Commission's proposed implementation schedule. As the Commission is aware, television stations in mid-sized and small markets are experiencing continued reductions in revenue and profitability. As the NAB notes, many of these stations, especially those in economically depressed markets, are losing considerable amounts of money each year. The United States economy remains in a recession. Advertising revenues have plummeted. And networks are continuing to slash affiliate compensation.

The current economy, of course, is difficult on all stations. But small and medium market stations are hit particularly hard by reductions in network compensation. Although network compensation may constitute a small portion of the revenue of a station in a major market, it can amount to a significant portion of the earnings of a small or medium market station. The network compensation cuts that have been occurring therefore hurt a small or medium market station's bottom line as much as ten times more than they hurt a large market station. On top of this, the vast majority of national spot advertising is increasingly concentrated in the top 10 to 20 markets. As compensation cuts continue and national advertising dollars continue to be spent primarily in the top markets, serious questions arise about the continued ability of small and medium

^{3/} See note 1, supra.

market stations to provide local community-oriented programming (including newscasts). This issue exists apart from the financial burden that ATV implementation presents.

Despite these financial strains, small and medium market stations will bear the same ATV start-up costs as large market stations, unless provisions are made to allow these disadvantaged stations to take advantage of economies of scale that could occur through a staggered implementation of ATV. Although ATV conversion costs are unknown, some estimate that they initially could be \$11 million or more for a single station. Once production of ATV equipment hits full stride, equipment prices are bound to drop to a level that is more affordable by small market stations. By allowing small and mid-sized market stations to construct after equipment costs drop, the Commission would better facilitate the transition to ATV by these stations.^{4/}

Unless an accommodation is made for small and mid-sized market stations, stations that are struggling the most would be placed at the forefront of ATV implementation along with the largest and most profitable stations. The initial costs for converting a station to ATV will be a significant expenditure for any station, and could be the death knell for many small market stations. These costs cut right to the bottom line. Like

^{4/} In fact, the initial estimate for ATV conversion comes very close to the purchase price for Freedom's KTVL in Medford, Oregon. Yet the ability to transmit in ATV does not present any realistic short-term opportunities for additional revenue sources.

compensation cuts, these costs hit small market stations proportionately the hardest.

In addition to having to expend considerable sums, many small and mid-sized markets are located in parts of the United States that have been caught in the recession for half a decade. It is hard to imagine that the demand for new (and expensive) ATV receivers in these areas will grow until the economy recovers. And, until that occurs, there is no hope of recovering the significant investment that must be made in ATV.

On top of this, stations that serve small markets with rugged terrain (such as Freedom's KTVL in Medford, Oregon) will be hit especially hard. KTVL's signal is now transmitted on more than thirty translators in order to adequately serve southwestern Oregon. Under the Commission's current proposal, stations like this will be faced with the additional costs of converting their many translators to ATV by the conversion date. Although NTSC translators can be placed into operation for a few thousand dollars, the cost and availability of ATV translators is yet unknown. KTVL, in the 139th largest market, could be faced with converting its main station and numerous translators on the same schedule as a station in the Los Angeles market that has no need for translator facilities. This type of a schedule simply does not comport with the realities of the marketplace that KTVL faces.

2. Construction, Simulcast and Conversion
Milestones Should be Established After the
Application Deadline

Freedom does not object to the Commission adopting reasonable milestones, including the proposed two-year application period. Indeed, some type of a schedule is necessary to ensure that ATV is implemented in a suitable timeframe. The question is when that schedule should be established. Freedom simply requests that the Commission implement a transition schedule in a manner that takes into account yet unforeseen factors, and urges the Commission to establish the remaining milestones for construction, simulcast, and conversion in the future when today's variables become known.

As the Commission is aware, many aspects of ATV remain uncertain: the transmission standard to be adopted, the cost and availability of broadcast equipment, the availability of (and willingness of consumers to purchase) new receivers, and the financial burden of the power costs for simulcast operations. Yet much of the Commission's implementation schedule fails to accommodate these unknowns. Within the next two to three years, after an ATV standard is adopted, a channel pairing plan is established, and broadcasters are able to file ATV channel applications, the Commission should revisit the issue of construction and other deadlines. At that time, the Commission can address these issues while taking into account current information about ATV and the state of the broadcast industry.

III. Conclusion

The Commission's proposal requires too much too soon in the face of difficult economic times, a yet undeveloped transmission technology, and an unarticulated transmission standard. Freedom therefore urges the Commission to re-examine its plans to establish at this time any ATV milestones, beyond an initial application schedule. At the very least, stations in small and mid-sized markets (e.g., ADIs below 30) should be given some relief from the Commission's current proposal.

Respectfully submitted,
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July 10, 1992

CERTIFICATE OF SERVICE

I, John P. Janka, do hereby certify that on this 10th day of July, 1992, a copy of the foregoing "Comments of Freedom Newspapers, Inc." was sent by first-class United States mail, postage prepared, to the following:

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Before the
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OFFICE OF THE SECRETARY

In the Matter of)

)
Digital Audio Broadcasting Systems)
And Their Impact On The Terrestrial Radio)
Broadcast Service)

MM Docket No. 99-325

COMMENTS OF
FREEDOM COMMUNICATIONS, INC.

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Before the
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In the Matter of)
)
)

Digital Audio Broadcasting Systems)
And Their Impact On The Terrestrial Radio)
Broadcast Service)

MM Docket No. 99-325

COMMENTS OF FREEDOM COMMUNICATIONS, INC. ON
NOTICE OF PROPOSED RULE MAKING

Freedom Communications, Inc. ("Freedom") files these comments in response to the Commission's Notice of Proposed Rule Making (the "Notice") in the above referenced proceeding.¹ In the Notice, the Commission seeks comment on issues surrounding the Commission's proposals to develop and implement digital audio broadcasting ("DAB") technology, and the impact of its proposals on digital television ("DTV") broadcast services.

I. INTRODUCTION

Freedom is the parent corporation of the licensees of eight full-service commercial television stations, three of which are assigned to Channel 6. WLNE(TV), New Bedford-Providence, Massachusetts; WRGB(TV), Albany-Schnectady-Troy, New York; WTVC(TV), Chattanooga, Tennessee; KFDM(TV), Beaumont-Port Arthur, Texas; WWMT(TV) Kalamazoo, Michigan; WLAJ(TV), Lansing, Michigan; KTVL(TV), Medford, Oregon; and WPEC(TV), West Palm Beach, Florida.² As an experienced television broadcaster, Freedom is

¹ Notice of Proposed Rule Making, MM Docket No. 99-325, FCC 99-327 (Rel. Nov. 1, 1999).

² WLNE(TV), New Bedford-Providence, Massachusetts, WRGB(TV), Albany-Schnectady-Troy, New York, and KFDM(TV), Beaumont-Port Arthur, Texas are all assigned to Channel 6.

well-qualified to comment on the effects on the television industry of the Commission's DAB proposals, especially as they relate to the possible use of the six megahertz of spectrum at 82-88 MHz, currently used for TV Channel 6.

For over a decade, the Commission, in conjunction with television broadcasters, has expended considerable efforts to make digital television ("DTV") a reality for the American public. Under the Commission's DTV implementation framework, analog television licensees will receive a "paired" DTV channel assignment over which the broadcaster will initiate digital transmissions during a transition period. At the end of this period, the Commission decided that broadcasters may elect to keep their existing analog channel when they convert to all-digital service and return the second "paired" channel. Based on the input from the public received in response to six separate requests for comments, the Commission established this system and *specifically found that it was in the best interests of the public that the frequencies associated with TV Channel 6 be maintained for DTV use.*

Throughout this process, Freedom has supported the Commission's efforts to facilitate the advancement of DTV. Based on the Commission's DTV orders, Freedom has implemented plans and made substantial investments to prepare for the broadcast of DTV under a "paired" channel framework. Freedom's current plans include the roll-out of DTV broadcasts on less favorable UHF frequencies followed by the eventual conversion of Freedom's current Channel 6 stations to all digital broadcast. Thus, a number of Freedom's stations are relying on the ability to return to Channel 6 at the end of the transition period.

More recently, the Commission also has begun to seek methods of introducing DAB to the American public. In the Notice, the Commission seeks comment on "whether the six megahertz at 82-88 MHz, currently used for TV Channel 6, could be reallocated to DAB service

at the end of the DTV transition . . . [and] whether this spectrum could be reallocated without adversely affecting the broadcast television service.”³

In short, the answer is “No.” In light of the Commission’s prior findings and the reliance of Freedom and other television broadcasters on the rulings of the Commission that Channel 6 will be available for DTV, any use of the 82-88 MHz band for DAB would adversely affect the broadcast television service. If the Commission were to reallocate Channel 6 for DAB, the DTV strategy of Freedom and other Channel 6 licensees will be significantly disrupted and Channel 6 television licensees would bear a disproportionate share of the cost of DTV implementation.

II. THE COMMISSION HAS RECOGNIZED THE IMPORTANCE OF MAINTAINING CHANNEL 6 AS A DTV FREQUENCY BAND

*We continue to believe that it is important to maintain the availability of channel 6 for television service. Channel 6 has advantageous propagation properties and has proven very desirable for television operation – as indicated by the fact that there are currently more than 55 NTSC television stations on this channel. We believe it would be undesirable to remove channel 6 from the core spectrum or to impose additional restrictions on use of this channel for DTV service after transition.*⁴

The Commission has acknowledged that the successful implementation of DTV requires that the Commission provide a clear and firm structure under which licensees can plan their conversion to DTV. Nearly two years ago, realizing that “postponing a decision on the low-VHF channels has raised uncertainties for licensees whose existing and/or DTV channels are in that portion of the spectrum,” the Commission expanded the “core” DTV spectrum to include

³ Notice at ¶ 41; *see also* ¶ 44.

⁴ *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report and Orders*, MM Docket No. 87-268, FCC 98-315, ¶ 57 (Rel. Dec. 18, 1998) (“Second Memorandum Opinion”).

Channels 2-6.⁵ The Commission found that expansion of the core would “eliminate the planning uncertainties for many broadcasters that have either DTV or NTSC channels in the Channel 2-6 or 47-51 regions of the spectrum” thereby alleviating difficulties and burdens that had been placed upon those broadcasters.⁶ Moreover, the Commission found that expanding the core would have the effect of promoting additional competition and diversity in the provision of DTV services and limiting the displacement of a significant number of stations.⁷ One year later, the Commission specifically reaffirmed its determination to include Channel 6 in the core DTV spectrum. In its reconsideration decision, the Commission emphasized the importance of maintaining the availability of Channel 6 for television.⁸ This decision gave further reassurance to Freedom and other broadcasters that Channel 6 would remain a viable frequency band for DTV broadcasts after the transition period. Television station licensees, including Freedom, have relied upon the Commission’s decisions and have planned their DTV roll-out strategies based on those statements.

For example, Freedom has undertaken significant planning and dedicated considerable resources toward implementing a DTV strategy that anticipates the use of Channel 6 in the post-transition period for certain stations whose “paired” UHF channels present implementation obstacles. Freedom’s support for the Commission’s DTV implementation programs, in part, has been based on the Commission’s continued reassurances that Channel 6 will remain available for DTV broadcasts.

⁵ *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, MM Docket No. 87-268, FCC 98-24, ¶¶ 42-46 (Rel. Feb. 23, 1998).

⁶ *Id.* at ¶¶ 42-43.

⁷ *Id.* at ¶¶ 43-44.

⁸ Second Memorandum Opinion at ¶¶ 54-57.

Any last minute reallocation of the Channel 6 frequency band would adversely affect broadcast television services for those consumers currently served by Channel 6 stations. Specifically any change in the DTV rules could throw into disarray the economic and strategic foundations of Freedom's and other Channel 6 licensees' plans. With the Commission mandated start of DTV broadcasts only 16 months away, Channel 6 licensees would have little time to adjust their plans.

Moreover, any reallocation of the television Channel 6 frequency for DAB would impose on current Channel 6 licensees a disproportionate share of DTV operating costs. If a Channel 6 station were required to permanently implement its DTV operations on its "paired" UHF channel, it would face a permanent increase in operating costs. As the Commission is well aware, in moving from a VHF channel to a UHF channel, most stations will face a substantial increase in power costs, particularly those who will operate at the high end of the UHF spectrum. While many VHF in-market competitors will face similar power cost increases during the transition period, those costs will significantly decrease when they return to their original VHF channels. But if Channel 6 is not available at the end of the transition period, a current Channel 6 station may not be able to employ the same business strategy to reduce costs.

III. CONCLUSION

Freedom remains committed to working with the Commission to foster the implementation of DTV. For this reason, Freedom strongly opposes any proposal to reverse the Commission's prior decision that Channel 6 will remain available for television stations during

and after the DTV transition period. The Commission therefore should summarily reject further consideration of any proposal to use Channel 6 for DAB purposes.

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